

NOTE:

The allegations and decision in this case fall under old rules. It has been classified under the most relevant of the current code sections and subsections.

ORIGINAL

IOWA BOARD OF EDUCATIONAL EXAMINERS

MAURICE MCDONALD,
SUPERINTENDENT
BGM COMMUNITY SCHOOLS
Complainant,

AND

KEITH REYNOLDS

Respondent.

CASE NO. 97-12

LICENSE NO. 319745

ORDER

The Complaint was filed with the Board of Educational Examiners on July 21, 1997. Subsequently, an investigation was completed. An evidentiary hearing was held before an Administrative Law Judge representing the Board of Educational Examiners, and a Proposed Decision was rendered.

After having reviewed the Proposed Decision, the Board accepts the decision of the Administrative Law Judge, striking the sanction, "a Letter of Reprimand shall be placed in the permanent licensure file of the Respondent, Keith Reynolds, License No. 319745," and inserting, in lieu, thereof, the following sanction: "a warning shall be issued to the Respondent, Keith Reynolds, License No. 319745.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that a Warning be issued to the Respondent, and a copy of this be placed in the permanent licensure file of the Respondent, Mr. Keith Reynolds.

Dated this 26th day of January, 1998.

Judith Brueggeman by Anne E. Kruse
JUDITH BRUEGGE MAN, VICE-CHAIRPERSON

Original filed on January 26, 1998 at the office of the Board of Educational Examiners.

IOWA BOARD OF EDUCATIONAL EXAMINERS

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MAURICE MCDONALD
SUPERINTENDENT
B.G.M. COMMUNITY SCHOOLS

Complainant,

AND

KEITH REYNOLDS
LICENSE NO. 319745

Respondent.

CASE NO. 97-12
DIA NO. 97BEE012

NOV 13 1997

BOARD OF EDUCATIONAL
EXAMINERS

PROPOSED DECISION

This matter came on for hearing before the undersigned administrative law judge on November 3, 1997 at 9:00 a.m. in the Lucas State Office Building, Second Floor, Hearing Room A, Des Moines, Iowa. The Complainant, B.G.M. Community Schools, was represented by its Superintendent, Maurice McDonald. The Respondent, Keith Reynolds, did not appear but submitted a letter for the record. The hearing was tape recorded.

A proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party to the decision who is adversely affected. An appeal is commenced by serving on the board's chair, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision or order on the appealing party. 282 IAC 11.13(1).

THE RECORD

The record includes the Complaint filed 7/21/97; the Board's letter to the Respondent, dated 8/12/97; Answer, filed 10/27/97; the Hearing Notice; Proof of Service; the testimony of the witness, and the following exhibits:

- Complainant Exhibit 1: Brooklyn-Guernsey-Malcolm Community School District Contract between Complainant and Respondent, Signed 4/25/97
- Complainant Exhibit 2: Board Policy 404, Resignations, Adopted 6/7/95
- Complainant Exhibit 3: Respondent's Letter of Resignation, dated 6/26/97
- Complainant Exhibit 4: Complaint, filed 7/21/97
- Complainant Exhibit 5: Letter dated 10/31/97 (Principal to Superintendent)
- Respondent Exhibit A: Respondent letter dated 10/24/97

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FINDINGS OF FACT

1. The Respondent was employed contractually with the B.G.M. Community School District as a secondary Instrumental Music teacher (grades 7-12). In addition, the Respondent had additional contractual responsibility for band concerts, pep band, marching band, and concert band. On April 25, 1997, the Respondent signed his teaching contract for the 1997-98 school year, which commenced on August 18, 1997. (Testimony of Maurice McDonald; Complainant Exhibit 1)

2. In late May 1997, the Respondent told the Principal of the B.G.M. Community School District that he was applying for other jobs. The Respondent's wife was seeking admission to the M.B.A. program at either the University of Iowa or the University of Wisconsin. The principal informed the Respondent that the school board had policies concerning late resignations. (Testimony of Maurice McDonald; Complainant Exhibit 5; Respondent Exhibit A)

3. The principal and the Respondent report different versions of their conversation.

a) According to a letter from the principal, the Respondent was told that there was a cutoff date sometime in June after which you could lose your certificate if you broke a contract. The principal states that he told the Respondent to see the Superintendent for the correct dates. (Complainant Exhibit 5)

b) According to the Respondent's letter, he was told that he could receive unconditional release from his contract during the month of May and that during the month of June, release was pending suitable replacement. (Respondent Exhibit A)

4. Board policy 404 of the B.G.M. Community School District was adopted on June 7, 1995. This policy states that resignations shall be submitted in writing to the Superintendent. Resignations submitted by May 31 for the following school year shall be accepted. Resignations for the following school year received after May 31 and before June 15 will not be accepted unless a suitable replacement is found. Resignations for the following school year received after June 14 or resignations for the current school year will not be considered except for serious illness of the employee or their spouse, parent or child or transfer of spouse due to employment to a location over 75 miles from Brooklyn. If an employee leaves without proper release, the Superintendent is directed to file a complaint with the Board of Educational Examiners. (Testimony of Maurice McDonald; Complainant Exhibit 2)

5. A book containing all board policies, including policy 404, is kept in the teacher's lounge at all times. The Superintendent explained that the reason for the policy is that the pool of the

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best qualified candidates declines significantly after May 31 when most school districts have signed contracts for the following school year. When hiring in the middle of summer, most of the candidates have been rejected by other school districts and are less qualified. This situation is made more difficult for B.G.M. Community School District, which as a small district has a difficult time competing with the larger districts for the better candidates. In addition, the school board feels that teaching contracts should be equally binding on teachers and the school district. The Superintendent noted that the school district would not be permitted to break a teaching contract just because it found a more qualified teacher in the middle of the summer. (Testimony of Maurice McDonald)

6. The Respondent's wife was admitted to the University of Wisconsin M.B.A. program, pending prerequisite course work in business. On June 19, 1997, the Respondent was offered a teaching position in a Wisconsin school district. The Respondent visited with the Superintendent that same day, and the Superintendent showed the Respondent Board Policy 404. In his letter, the Respondent states that this was the first time that he was informed of the June 15 deadline and states further that it contradicts the information that he had been given earlier. (Testimony of Maurice McDonald; Respondent Exhibit A)

7. The Respondent submitted his written resignation to the Superintendent on June 26, 1997. In his letter of resignation, the Respondent states that his wife would be attending the University of Wisconsin-Madison in the fall, and he had been offered a high school band position in Wisconsin, which would be a "big step up" for his career. The Respondent also stated that it was not his intention to inconvenience the school district and offered to pay for an advertisement in the Des Moines Sunday Register. (Testimony of Maurice McDonald; Complainant Exhibit 3)

8. B.G.M. Community School District was able to hire a replacement for the Respondent for the 1997-1998 school year. However, the Superintendent testified that he continues to feel that the school district has been adversely impacted by the Respondent's untimely resignation. (Testimony of Maurice McDonald)

9. The Complaint was filed on July 21, 1997. On September 23, 1997, the Board issued a Hearing Notice. The Respondent was served with the Hearing Notice by certified mail, return receipt requested. (Complaint; Hearing Notice; Certified Mail Return Receipt)

CONCLUSIONS OF LAW

1. The Hearing Notice was properly served on the Respondent by certified mail, return receipt requested, in accordance with 282

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IAC 11.8(1). The Respondent failed to appear for the hearing, and the hearing was held in his absence. He is bound by the results of the hearing to the same extent as if he had appeared. Iowa Code section 17A.12(3) (1997).

2. The governing criteria of professional practice applicable to this case are found at 282 IAC 12.1 and 12.3(4):

282-12.1(272) Contractual and other legal obligations.

12.1(1) Statutory provisions.

a. The Board recognizes the need for all members of the profession to be cognizant of the statutes of the state of Iowa which deal with contractual and other legal obligations. A violation of any of the school laws of Iowa constitutes a violation of the criteria of the board of educational examiners.

b. The board recognizes its responsibility to investigate cases which involve the habitual failure of a practitioner to fulfill contractual obligations under Iowa Code section 279.13

12.1(2) Written contracts. The board recognizes the need for a common basis upon which teachers and boards of education may agree. The effectiveness of a written contract will be dependent upon mutual confidence and good faith which both parties enter into and agree. Boards of education have final authority and responsibility to enter into written contractual agreements.

...
282-12.3(272) Ethical practice toward other members of the profession, parents, students and the community.

12.3(4) Principle IV-commitment to professional employment practices. The educator regards the employment agreement as a pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service... In fulfilling the obligation to professional employment practices, the educator:

...
e. Shall adhere to the terms of a contract or appointment, unless these terms have been legally terminated, falsely represented, or substantially altered by unilateral action of the employing agency.

3. The preponderance of the evidence established that the Respondent unilaterally breached his employment contract for the 1997-98 school year with the B.G.M. Community School District, in violation of the criteria of professional practices, as outlined in 282 IAC 12.1 and 12.3(4).

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The Respondent and the Complainant disagree concerning when the Respondent was orally informed of the specific provisions of the Board policy 404 which set a June 14 deadline for submission of resignations. This conflict is difficult to resolve since neither of the parties to the conversation, the Principal or the Respondent, were available for testimony and cross-examination. Nevertheless, regardless of whether the Respondent was orally informed of the specific provisions of the policy, the written policy was in fact available for inspection in the teacher's lounge. As the party contemplating resignation after he had signed a contract, it was incumbent on the Respondent to inform himself fully of his legal obligations under that contract. The Respondent failed to do so and submitted his resignation on June 26, 1997, 12 days after the deadline set by Board policy.

The Superintendent is correct when he states that it is essential for both parties to be bound to the contract, not just the employer. This principle is explicitly recognized by the Board rule found at 282 IAC 12.1(2). The effectiveness of written contracts is dependent upon "mutual confidence and good faith..."

It is likely that the school district was placed at a disadvantage when it was required to begin a search for a replacement at the end of June. As pointed out by the school district, the field of qualified candidates narrows significantly by the middle of summer.

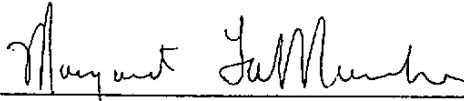
There are, however, also some mitigating circumstances present. The Respondent did orally notify the principal in May that he was applying for other positions. This is mitigating to the extent that the Respondent was open with the principal and did not conceal his job search. On the other hand, the school district was unable to institute its search for a replacement until they had the Respondent's resignation in hand.

In addition, in terms of severity, this is a less serious breach of professional practices than those cases where the teacher resigns just a few days before the school year begins or even after the school year begins. These factors were considered in determining the relative severity of the recommended disciplinary sanction. Under the limited facts of this case, the appropriate sanction is a letter of reprimand to be placed in the permanent licensure file of the Respondent.

ORDER

IT IS THEREFORE ORDERED, that if this proposed decision becomes the final decision, a Letter of Reprimand shall be placed in the permanent licensure file of the Respondent, Keith Reynolds, License No. 319745.

Dated this 13th day of November, 1997.



Margaret LaMarche
Administrative Law Judge
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